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Attorney Docket No. 05725.0634-00

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:

Jean-Marc ASCIONE et al.

Application No.: 09/809,009

Filed: March 16, 2001

For: COMPOSITIONS COMPRISING AT LEAST
TWO ANIONIC ASSOCIATIVE POLYMERS
AND THEIR USE FOR A STABILIZATION
OF OXIDIZING SOLUTION

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) Group Art Unit: 1751
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) Examiner: E. Elhilo
)
) Confirmation No. 5103
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Mail Stop Appeal Brief--Patents

Commissioner for Patents
P.O. Box 1450
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Sir:

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

Further to the Notice of Appeal filed June 7, 2005, and pursuant to 37 C.F.R. § 41.37, Appellants present this brief and enclose herewith a check for the fee of \$500.00 required under 37 C.F.R. § 41.20(b)(2). The period for filing an Appeal Brief has been extended one month to September 7, 2005, by the accompanying petition and fee.

This appeal is in response to the final Office Action dated February 8, 2005 ("Final Office Action"), rejecting claims 1-65, which are set forth in the attached Claims Appendix.

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Application No.: 09/809,009
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I. Real Party In Interest

L'Oréal S.A. is the assignee of record.

II. Related Appeals and Interferences

Appellants, Appellants' undersigned legal representative, or L'Oréal S.A. know of no other appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. Status Of Claims

Claims 1-65 are pending in this application and are finally rejected. Final Office Action, page 1.

Specifically, in the Final Office Action, pages 2-3,

(1) claims 1-6 and 8-65 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *de la Mettrie et al.* (U.S. Patent No. 5,989,295) ("*de la Mettrie '295*") in view of *Research Disclosure*, December 1999, pp. 1552-1554 (XP-000934522 ("*Research Disclosure*")); and

(2) claim 7 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over *de la Mettrie '295* in view of *Research Disclosure* and further in view of *Hutchins et al.* (U.S. Patent No. 5,830,447) ("*Hutchins*").

IV. Status Of Amendments

No claims have been amended in response to or subsequent to the Final Office Action.

V. Summary Of Claimed Subject Matter

The claims of the present invention recite compositions comprising (i) at least one anionic associative polymer comprising at least one carboxylic acid group and at least one ester derived from a fatty alcohol and a carboxylic acid; (ii) at least one additional anionic associative polymer comprising at least one carboxylic acid group and at least one ester derived from an alkoxylated fatty alcohol and a carboxylic acid; and (iii) at least one oxidizing agent. Specification, page 1, lines 1-6. The inventive compositions may provide physical stability to an oxidizing composition. *Id.* lines 7-8. The claims of the present invention also recite processes for providing physical stability to an oxidizing composition. *Id.* lines 10-11.

One embodiment of the present invention, as recited in independent claim 1, is directed to a composition comprising

- at least one anionic associative polymer comprising at least one carboxylic acid group and at least one ester derived from a fatty alcohol and a carboxylic acid;
- at least one additional anionic associative polymer comprising at least one carboxylic acid group and at least one ester derived from an alkoxylated fatty alcohol and a carboxylic acid; and
- at least one oxidizing agent.

Id. page 3, lines 8-13.

Another embodiment of the present invention, as recited in independent claim 22, is directed to a method for providing physical stability to an oxidizing composition comprising:

including in said oxidizing composition:

at least one anionic associative polymer comprising at least one carboxylic acid group and at least one ester derived from a fatty alcohol and a carboxylic acid; and

at least one additional anionic associative polymer comprising at least one carboxylic acid group and at least one ester derived from an alkoxylated fatty alcohol and a carboxylic acid;

wherein said at least one anionic associative polymer and said at least one additional anionic associative polymer are present in a combined amount effective to provide stability to said oxidizing composition.

Id. page 3, line 18 - page 4, line 6.

A further embodiment of the present invention, as recited in independent claim 42, is directed to a method for treating keratinous fibers comprising:

applying to said keratinous fibers at least one treatment composition comprising an oxidizing composition, wherein said oxidizing composition comprises:

at least one anionic associative polymer comprising at least one carboxylic acid group and at least one ester derived from a fatty alcohol and a carboxylic acid;

at least one additional anionic associative polymer comprising at least one carboxylic acid group and at least one ester derived from an alkoxylated fatty alcohol and a carboxylic acid; and

at least one oxidizing agent.

Id. page 4, lines 7-14.

An additional embodiment of the present invention, as recited in independent claim 64, is directed to a multi-compartment kit for treatment of keratinous fibers, comprising at least two separate compartments, wherein

a first compartment contains an oxidizing composition comprising:

at least one anionic associative polymer comprising at least one carboxylic acid group and at least one ester derived from a fatty alcohol and a carboxylic acid;

at least one additional anionic associative polymer comprising at least one carboxylic acid group and at least one ester derived from an alkoxylated fatty alcohol and a carboxylic acid; and

at least one oxidizing agent; and

a second compartment contains a composition for treatment of the keratinous fibers.

Id. page 4, line 15 - page 5, line 4.

VI. Grounds of Rejection To Be Reviewed on Appeal

Two grounds of rejection are to be reviewed in this appeal. In the Final Office Action, pages 2-3, the Examiner has maintained:

(1) the rejection of claims 1-6 and 8-65 under 35 U.S.C. § 103(a) as being unpatentable over *de la Mettrie et al.* (U.S. Patent No. 5,989,295) ("*de la Mettrie '295*") in view of Research Disclosure, December 1999, pp. 1552-1554 (XP-000934522 ("*Research Disclosure*")); and

(2) the rejection of claim 7 under 35 U.S.C. § 103(a) as being unpatentable over *de la Mettrie '295* in view of *Research Disclosure* and further in view of *Hutchins et al.* (U.S. Patent No. 5,830,447) ("*Hutchins*").

VII. Argument

Each claim of the present application is separately patentable, and upon issuance of a patent will be entitled to a separate presumption of validity under 35 U.S.C. § 282. The arguments set forth below are arranged under subheadings, and in accordance with 37 C.F.R. § 41.37(c)(1)(vii), these subheadings indicate the claims whose patentability are argued separately.

To establish a *prima facie* case of obviousness, the Examiner must first show that the prior art references teach or suggest all the claim limitations. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). The Examiner must also show that there is some suggestion or motivation, either in the references or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the references to arrive at the claimed invention, and that there is a reasonable expectation of success. *In re Vaeck*, 947 F.2d 488, 493, 20 USPQ2d 1438, 1442 (Fed. Cir. 1991). The suggestion or motivation “must be found in the prior art reference, not in the Applicant’s disclosure.” *Id.*

A. Claims 1-6, 8-21, 42-48, and 50-65 Are Patentable over *de la Mettrie* '295 in view of *Research Disclosure*

In the present case, the Examiner has failed to establish a *prima facie* case of obviousness for claims 1-6, 8-21, 42-48, and 50-65, because the Examiner has failed to point to any evidence of a suggestion or motivation to modify or combine the references to arrive at the presently claimed composition, or any evidence of a reasonable expectation of success.

The Examiner alleges that *de la Mettrie* '295 discloses "an aqueous hair dyeing composition comprising anionic amphiphilic polymers containing at least one hydrophilic unit of unsaturated olefinic carboxylic acid and at least one hydrophobic unit which is a C10-C30 alkyl ester of unsaturated carboxylic [acid]." Office Action dated July 28, 2004, page 2. However, the Examiner admits that *de la Mettrie* '295 "does not teach the additional anionic associative polymer that comprises at least one carboxylic acid group and at least one ester derived from an alkosylated fatty alcohol and a carboxylic acid as claimed." *Id.* at page 3. To remedy this deficiency, the Examiner relies on *Research Disclosure*, alleging that *Research Disclosure* "suggests the use of Acrylates/Methacrylates/Beheneth-25 Methacrylate Copolymer [("Aculyn 28")] in dyeing formulation to offer more than one function such as thickening, stabilizing, suspension of ingredients and also to act as a clear g[e]llant and as a polymeric emulsifier in the composition (see page 1, 5th paragraph)." Final Office Action, page 2. Therefore, the Examiner concludes that, because *de la Mettrie* '295 "teaches and suggests a number of anionic associative polymers having a mixture of monomers that can be used in the composition (see col. 4, lines 25-65) (Office Action dated July 28, 2004, page 4; Final Office Action, page 2), it would have been obvious to modify the composition of *de la Mettrie* '295 by incorporating the Acrylates/Methacrylates/Beheneth-25 Methacrylate Copolymer (Aculyn 28) "with a reasonable expectation of success for improving the performance of the composition." Final Office Action, pages 2-3. Appellants respectfully disagree for at least the following reasons.

First, the Examiner has failed to point to any evidence of a suggestion or motivation to modify the composition of *de la Mettrie* '295 by incorporating in it the

Acrylates/Methacrylates/Beheneth-25 Methacrylate Copolymer ("Aculyn 28") as disclosed in *Research Disclosure. de la Mettrie '295* discloses "oxidation dye compositions (after mixing with the oxidizing agent)," "comprising at least one oxidation dye precursor and optionally one or more couplers and at least one anionic amphiphilic polymer," "which do not run and thus remain better localized at the point of application, and which also make it possible to obtain more chromatic (more luminous) and more intense shades." Col. 1, lines 7-9 and 58-64. Therefore, there is no need or desirability to add an additional thickener, let alone the specific at least one additional anionic associative polymer as cited in, for example, the present claim 1. "[T]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination." M.P.E.P. § 2143.01 (emphasis in original and emphasis supplied).

Contrary to the Examiner's allegation, *de la Mettrie '295* does not teach or suggest to add an additional anionic associative polymer. *de la Mettrie '295* discloses an oxidation dye composition comprising, among other ingredients, **at least one anionic amphiphilic polymer**. Col. 1, lines 5-14. *de la Mettrie '295* in column 4, lines 25-65, which is relied by the Examiner, discloses specific examples of the at least one anionic amphiphilic polymer, which is taught as a possible ingredient of the composition ("The anionic amphiphilic polymers which may be used in the context of the present invention may more particularly denote polymers formed from a mixture of monomers comprising . . ."). Therefore, *de la Mettrie '295* does not teach or suggest to add an additional anionic associative polymer to its already-stable composition. Accordingly,

one of ordinary skill in the art would not have been suggested or motivated to modify the composition of *de la Mettrie* '295 as alleged by the Examiner.

Second, the Examiner has failed to point to any evidence of a reasonable expectation of success to modify the composition of *de la Mettrie* '295 by incorporating Aculyn 28 as disclosed in *Research Disclosure* to arrive at the presently claimed invention. As discussed above, *de la Mettrie* '295 discloses "oxidation dye compositions (after mixing with the oxidizing agent)." Col. 1, lines 58-61; see *also* col. 2, lines 19-20. *Research Disclosure* merely discloses that Aculyn 28 "can be used as a thickener in hair dyes other [h]air care products . . . as well as skin care products." *Research Disclosure*, page 1, 5th paragraph. The specific examples disclosed in *Research Disclosure* are the combinations of Aculyn 28 with magnesium aluminum silicate or with a quasi cationic polymer. *Id.* at pages 2-3. Neither *de la Mettrie* '295 nor *Research Disclosure*, alone or in combination, provides a reasonable expectation of success of combining Aculyn 28 with the oxidative dye composition of *de la Mettrie* '295, let alone the at least one additional anionic associative polymer and the at least one oxidizing agent as recited in, for example, claim 1 of the present invention.

Instead, it is well known by one of ordinary skill in the art that oxidative dye compositions are highly unpredictable. For example, U.S. Patent No. 5,393,305 to Cohen et al. ("*Cohen*"), which was brought to the Examiner's attention with a submission of an Information Disclosure Statement and PTO 1449 form on March 16, 2001, and was considered by the Examiner on January 17, 2002, emphasizes the unpredictability associated with oxidative hair dye compositions. Specifically, *Cohen* teaches that oxidative dye compositions involve a delicate balance designed to satisfy

several conditions, including, for example, stability, rheological properties, rapid diffusion, and comparable viscosities. *Cohen*, col. 1, lines 17-60.

Nevertheless, the Examiner alleges that Appellants have “not provided [] data or showing to demonstrate that the addition of Acrylates/Methacrylates/Beheneth-25 Methacrylate Copolymer (Aculyn 28) in the dyeing composition of [*de la Mettrie* '295] may destroy the stability of the composition. Therefore, a *prima facie* case of obviousness has been established.” Final Office Action, page 3. Appellants respectfully disagree for at least the following reasons.

First, Appellants do not bear the burden to provide the “data or showing” as requested by the Examiner. Indeed, the Examiner bears the initial burden to establish a *prima facie* case of obviousness. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988) (citation omitted). And, as discussed above, the Examiner has not met the burden.

Second, “whether the proposed modification or combination of the prior has a reasonable expectation of success is determined at the time the invention was made.” *Ex parte Erlich*, 3 USPQ2d 1011 (Bd. Pat. App. & Inter. 1986). At the time the present invention was made, one of ordinary skill in the art would have appreciated that oxidative dye compositions are highly unpredictable, as discussed above. Because of the high unpredictability associated with oxidizing dye compositions, one of ordinary skill in the art would not have a reasonable expectation of success nor the requisite suggestion or motivation to incorporate Aculyn 28 in the already-stable oxidizing dye composition of *de la Mettrie* '295, without the disclosure of the present invention as a blueprint.

Accordingly, as the Examiner has failed to establish a *prima facie* case of obviousness for claims 1-6, 8-21, 42-48, and 50-65, this rejection is improper and should be reversed and withdrawn.

**B. Claims 27 and 49 Are Patentable
over *de la Mettrie* '295 in view of *Research Disclosure***

The Examiner has failed to establish a *prima facie* case of obviousness for claims 27 and 49 for at least the reasons set forth in section A.

In addition, the Examiner has failed to establish that *de la Mettrie* '295 and *Research Disclosure*, alone or in combination, teach or suggest each and every element of the present claims 27 and 49. Specifically, the Examiner has failed to establish that *de la Mettrie* '295 and *Research Disclosure*, alone or in combination, teach or suggest a composition comprising "the at least one anionic associative polymer [being] crosslinked with at least one allyl ether chosen from allyl ethers of sucrose and allyl ethers of pentaerythritol" as recited in the present claims 27 and 49. Indeed, the Examiner admits that *de la Mettrie* '295 and *Research Disclosure* "fail to teach compositions comprising [the] anionic associate polymer, which is crosslinked with at least one ally[l] ether chosen from allyl ethers of sucrose and allyl ether[s] of pentaerythritol as claimed." Office Action dated July 28, 2004, page 5.

Accordingly, as the Examiner has failed to establish a *prima facie* case of obviousness for claims 27 and 49, this rejection is improper and should be reversed and withdrawn.

**C. Claims 22-41 Are Patentable
over *de la Mettrie* '295 in view of *Research Disclosure***

The Examiner has failed to establish a *prima facie* case of obviousness for claims 22-41 for at least the reasons set forth in section A.

In addition, the Examiner has failed to establish that *de la Mettrie* '295 and *Research Disclosure*, alone or in combination, teach or suggest each and every element of the present claims 22-41. Specifically, the Examiner has failed to establish that *de la Mettrie* '295 and *Research Disclosure*, alone or in combination, teach or suggest a method "for providing physical stability to an oxidizing composition" as recited in the present claims 22-41.

Accordingly, as the Examiner has failed to establish a *prima facie* case of obviousness for claims 22-41, this rejection is improper and should be reversed and withdrawn.

**D. Claim 7 is Patentable over *de la Mettrie* '295
in view of *Research Disclosure* and *Hutchins***

Finally, the Examiner rejects claim 7 under 35 U.S.C. § 103(a) as being unpatentable over *de la Mettrie* '295 in view of *Research Disclosure* and further in view of *Hutchins*. Final Office Action, page 2. Specifically, the Examiner admits that *de la Mettrie* '295 and the *Research Disclosure* "fail to teach compositions comprising [the] anionic associative polymer, which is crosslinked with at least one allyl ether chosen from allyl ethers of sucrose and allyl ether[s] pentaerythritol" as recited in the present claim 7. Office Action dated July 28, 2004, page 5. To remedy this deficiency, the Examiner relies on *Hutchins* for its teaching of "copolymers of C10-C30 alkyl acrylates

with one or more [monomers] of acrylic acid, methacrylic acid or one of their short chain (i.e. [C₁₋₄] alcohol) ester[s], wherein the crosslinking agent is an allyl ether of sucrose or pentaerythritol.” *Id.* Therefore, the Examiner concludes that it would have been obvious to “modify the composition of [*de la Mettrie* ’295] by incorporating the anionic associative polymer” disclosed in *Hutchins*. *Id.* Appellants respectfully disagree for at least the following reason.

As discussed above in section A, neither *de la Mettrie* ’295 nor *Research Disclosure*, alone or in combination, provides evidence of the requisite suggestion or motivation and evidence of a reasonable expectation of success to incorporate Aculyn 28 as disclosed in *Research Disclosure* into the composition of *de la Mettrie* ’295 to arrive at the presently claimed invention. *Huchins* does not remedy these deficiencies. The Examiner merely relies on *Huchins* for its teaching of “copolymers of C10-C30 alkyl acrylates with one or more [monomers] of acrylic acid, methacrylic acid or one of their short chain (i.e. [C₁₋₄] alcohol) ester[s], wherein the crosslinking agent is an allyl ether of sucrose or pentaerythritol.” Office Action dated July 28, 2004, page 5.

Therefore, as the Examiner has failed to establish a *prima facie* case of obviousness for claim 7, this rejection is improper and should be reversed and withdrawn.

Conclusion

In view of the foregoing, Appellants respectfully submit that a *prima facie* case of obviousness has not been established, and request that the outstanding §103(a) rejections be reversed and withdrawn.

VIII. Claims Appendix

1. (Original) A composition comprising:
 - at least one anionic associative polymer comprising at least one carboxylic acid group and at least one ester derived from a fatty alcohol and a carboxylic acid;
 - at least one additional anionic associative polymer comprising at least one carboxylic acid group and at least one ester derived from an alkoxylated fatty alcohol and a carboxylic acid; and
 - at least one oxidizing agent.
2. (Original) The composition according to claim 1, wherein said at least one anionic associative polymer and said at least one additional anionic associative polymer are present in a combined amount effective to stabilize the composition.
3. (Original) The composition according to claim 1, wherein said fatty alcohol of said at least one anionic associative polymer is chosen from C₈ to C₃₆ fatty alcohols.
4. (Original) The composition according to claim 1, wherein said at least one anionic associative polymer is chosen from copolymers derived from (i) at least one monomer chosen from C₁₀-C₃₀ alkyl acrylates, and (ii) at least one monomer comprising at least one carboxylic acid group.
5. (Original) The composition according to claim 4, wherein said at least one monomer comprising at least one carboxylic acid group is chosen from acrylic acid and methacrylic acid.
6. (Original) The composition according to claim 4, wherein said at least one anionic associative polymer further comprises at least one unit comprising at least

one ester chosen from esters derived from acrylic acid and esters derived from methacrylic acid.

7. (Original) The composition according to claim 1, wherein said at least one anionic associative polymer is crosslinked with at least one allyl ether chosen from allyl ethers of sucrose and allyl ethers of pentaerythritol.

8. (Original) The composition according to claim 1, wherein said at least one anionic associative polymer is chosen from Acrylates/C10-30 Alkyl Acrylate Crosspolymers.

9. (Original) The composition according to claim 1, wherein said alkoxyated fatty alcohol is chosen from polyethylene glycol ethers.

10. (Original) The composition according to claim 1, wherein said at least one additional anionic associative polymer is chosen from copolymers derived from (i) at least one monomer comprising at least one ester derived from a carboxylic acid and a polyethylene glycol ether and (ii) at least one monomer comprising at least one carboxylic acid group.

11. (Original) The composition according to claim 10, wherein said at least one monomer comprising at least one carboxylic acid group is chosen from acrylic acid and methacrylic acid.

12. (Original) The composition according to claim 10, wherein said at least one additional anionic associative polymer further comprises at least one unit comprising at least one ester chosen from esters derived from acrylic acid and a polyethylene glycol ether, and esters derived from methacrylic acid and a polyethylene glycol ether.

13. (Original) The composition according to claim 10, wherein said polyethylene glycol ether is chosen from polyethylene glycol ethers of at least one alcohol chosen from stearyl alcohol, lauryl alcohol, nondecanol, arachidyl alcohol, heneicosanol, behenyl alcohol, tricosanol, triacontanol, and hentriacontanol.

14. (Original) The composition according to claim 1, wherein said at least one additional anionic associative polymer is chosen from Acrylates/ Steareth-20 Methacrylate Copolymers and Acrylates/Beheneth-25 Methacrylate Copolymers.

15. (Original) The composition according to claim 1, wherein said at least anionic associative polymer is present in the composition in an amount ranging from 0.01% to 2.5% by weight relative to the total weight of the composition.

16. (Original) The composition according to claim 1, wherein said at least one additional anionic associative polymer is present in the composition in an amount ranging from 0.01% to 5.00% by weight relative to the total weight of the composition.

17. (Original) The composition according to claim 1, wherein said at least one oxidizing agent is chosen from hydrogen peroxides, bromate salts, percarbonate salts, perborate salts and enzymes.

18. (Original) The composition according to claim 17, wherein said at least one oxidizing agent is hydrogen peroxide.

19. (Original) The composition according to claim 1, wherein said at least one oxidizing agent is present in the composition in an amount ranging from 0.1% to 20.0% by weight relative to the total weight of the composition.

20. (Original) The composition according to claim 1, further comprising at least one adjuvant chosen from anionic surfactants, cationic surfactants, nonionic

surfactants, amphoteric surfactants, anionic polymers different from said at least one anionic associative polymer and different from said at least one additional anionic associative polymer, nonionic polymers, cationic polymers, amphoteric polymers, inorganic thickeners, organic thickeners, antioxidants, stabilizing agents, propellants, sequestering agents, emollients, humectants, fragrances, acidifying agents, basifying agents, chelating agents, moisturizing agents, vitamins, essential fatty acids, proteins, protein derivatives, dyes, alkaline agents, reducing agents, preservatives, and opacifiers.

21. (Original) The composition according to claim 1, wherein said composition is in the form of an aqueous emulsion, a suspension, a dispersion, an aerosol foam, a cream, a lotion, a solution, a paste, a gel, a spray, or a hydroalcoholic lotion.

22. (Original) A method for providing physical stability to an oxidizing composition comprising:

including in said oxidizing composition:

at least one anionic associative polymer comprising at least one carboxylic acid group and at least one ester derived from a fatty alcohol and a carboxylic acid; and

at least one additional anionic associative polymer comprising at least one carboxylic acid group and at least one ester derived from an alkoxylated fatty alcohol and a carboxylic acid;

wherein said at least one anionic associative polymer and said at least one additional anionic associative polymer are present in a combined amount effective to provide stability to said oxidizing composition.

23. (Original) The method according to claim 22, wherein said fatty alcohol of said at least one anionic associative polymer is chosen from C₈ to C₃₆ fatty alcohols.

24. (Original) The method according to claim 22, wherein said at least one anionic associative polymer is chosen from copolymers derived from (i) at least one monomer chosen from C₁₀-C₃₀ alkyl acrylates, and (ii) at least one monomer comprising at least one carboxylic acid group.

25. (Original) The method according to claim 24, wherein said at least one monomer comprising at least one carboxylic acid group is chosen from acrylic acid and methacrylic acid.

26. (Original) The method according to claim 24, wherein said at least one anionic associative polymer further comprises at least one unit comprising at least one ester chosen from esters derived from acrylic acid and esters derived from methacrylic acid.

27. (Original) The method according to claim 22, wherein said at least one anionic associative polymer is crosslinked with at least one allyl ether chosen from allyl ethers of sucrose and allyl ethers of pentaerythritol.

28. (Original) The method according to claim 27, wherein said at least one anionic associative polymer is chosen from Acrylates/C₁₀-30 Alkyl Acrylate Crosspolymers.

29. (Original) The method according to claim 22, wherein said alkoxylated fatty alcohol is chosen from polyethylene glycol ethers.

30. (Original) The method according to claim 22, wherein said at least one additional anionic associative polymer is chosen from copolymers derived from (i) at

least one monomer comprising at least one ester derived from a carboxylic acid and a polyethylene glycol ether and (ii) at least one monomer comprising at least one carboxylic acid group.

31. (Original) The method according to claim 30, wherein said at least one monomer comprising at least one carboxylic acid group is chosen from acrylic acid and methacrylic acid.

32. (Original) The method according to claim 30, wherein said at least one additional anionic associative polymer further comprises at least one unit comprising at least one ester chosen from esters derived from acrylic acid and a polyethylene glycol ether, and esters derived from methacrylic acid and a polyethylene glycol ether.

33. (Original) The method according to claim 30, wherein said polyethylene glycol ether is chosen from polyethylene glycol ethers of at least one alcohol chosen from stearyl alcohol, lauryl alcohol, nondecanol, arachidyl alcohol, heneicosanol, behenyl alcohol, tricosanol, triacontanol, and hentriacontanol.

34. (Original) The method according to claim 22, wherein said at least one additional anionic associative polymer is chosen from Acrylates/ Steareth-20 Methacrylate Copolymers and Acrylates/Beheneth-25 Methacrylate Copolymers.

35. (Original) The method according to claim 22, wherein said at least anionic associative polymer is present in the composition in an amount ranging from 0.01% to 2.5% by weight relative to the total weight of said oxidizing composition.

36. (Original) The method according to claim 22, wherein said at least one additional anionic associative polymer is present in the composition in an amount

ranging from 0.01% to 5.00% by weight relative to the total weight of said oxidizing composition.

37. (Original) The method according to claim 22, wherein said at least one oxidizing agent is chosen from hydrogen peroxides, bromate salts, percarbonate salts, perborate salts and enzymes.

38. (Original) The method according to claim 37, wherein said at least one oxidizing agent is hydrogen peroxide.

39. (Original) The method according to claim 22, wherein said at least one oxidizing agent is present in the composition in an amount ranging from 0.1% to 20.0% by weight relative to the total weight of said oxidizing composition.

40. (Original) The method according to claim 22, wherein said oxidizing composition further comprises at least one adjuvant chosen from anionic surfactants, cationic surfactants, nonionic surfactants, amphoteric surfactants, anionic polymers different from said at least one anionic associative polymer and different from said at least one additional anionic associative polymer, nonionic polymers, cationic polymers, amphoteric polymers, inorganic thickeners, organic thickeners, antioxidants, stabilizing agents, propellants, sequestering agents, emollients, humectants, fragrances, acidifying agents, basifying agents, chelating agents, moisturizing agents, vitamins, essential fatty acids, proteins, protein derivatives, dyes, alkaline agents, reducing agents, preservatives, and opacifiers.

41. (Original) The method according to claim 22, wherein said oxidizing composition is in the form of an aqueous emulsion, a suspension, a dispersion, an

aerosol foam, a cream, a lotion, a solution, a paste, a gel, a spray, or a hydroalcoholic lotion.

42. (Original) A method for treating keratinous fibers comprising applying to said keratinous fibers at least one treatment composition comprising an oxidizing composition, wherein said oxidizing composition comprises:

at least one anionic associative polymer comprising at least one carboxylic acid group and at least one ester derived from a fatty alcohol and a carboxylic acid;

at least one additional anionic associative polymer comprising at least one carboxylic acid group and at least one ester derived from an alkoxylated fatty alcohol and a carboxylic acid; and

at least one oxidizing agent.

43. (Original) The method according to claim 42, wherein said at least one treatment composition is chosen from a dyeing composition, a bleaching composition, a permanent waving composition, and a relaxing composition.

44. (Original) The method according to claim 42, wherein said at least one anionic associative polymer and said at least one additional anionic associative polymer are present in a combined amount effective to stabilize the at least one treatment composition.

45. (Original) The method according to claim 44, wherein said fatty alcohol of said at least one anionic associative polymer is chosen from C₈ to C₃₆ fatty alcohols.

46. (Original) The method according to claim 42, wherein said at least one anionic associative polymer is chosen from copolymers derived from (i) at least one

monomer chosen from C₁₀-C₃₀ alkyl acrylates, and (ii) at least one monomer comprising at least one carboxylic acid group.

47. (Original) The method according to claim 46, wherein said at least one monomer comprising at least one carboxylic acid group is chosen from acrylic acid and methacrylic acid.

48. (Original) The method according to claim 46, wherein said at least one anionic associative polymer further comprises at least one unit comprising at least one ester chosen from esters derived from acrylic acid and esters derived from methacrylic acid.

49. (Original) The method according to claim 42, wherein said at least one anionic associative polymer is crosslinked with at least one allyl ether chosen from allyl ethers of sucrose and allyl ethers of pentaerythritol.

50. (Original) The method according to claim 42, wherein said at least one anionic associative polymer is chosen from Acrylates/C₁₀-30 Alkyl Acrylate Crosspolymers.

51. (Original) The method according to claim 42, wherein said alkoxyated fatty alcohol is chosen from polyethylene glycol ethers.

52. (Original) The method according to claim 42, wherein said at least one additional anionic associative polymer is chosen from copolymers derived from (i) at least one monomer comprising at least one ester derived from a carboxylic acid and a polyethylene glycol ether and (ii) at least one monomer comprising at least one carboxylic acid group.

53. (Original) The method according to claim 52, wherein said at least one monomer comprising at least one carboxylic acid group is chosen from acrylic acid and methacrylic acid.

54. (Original) The method according to claim 52, wherein said at least one additional anionic associative polymer further comprises at least one unit comprising at least one ester chosen from esters derived from acrylic acid and a polyethylene glycol ether, and esters derived from methacrylic acid and a polyethylene glycol ether.

55. (Original) The method according to claim 52, wherein said polyethylene glycol ether is chosen from polyethylene glycol ethers of at least one alcohol chosen from stearyl alcohol, lauryl alcohol, nondecanol, arachidyl alcohol, heneicosanol, behenyl alcohol, tricosanol, triacontanol, and hentriacontanol.

56. (Original) The method according to claim 42, wherein said at least one additional anionic associative polymer is chosen from Acrylates/ Steareth-20 Methacrylate Copolymers and Acrylates/Beheneth-25 Methacrylate Copolymers.

57. (Original) The method according to claim 42, wherein said at least anionic associative polymer is present in an amount ranging from 0.01% to 2.5% by weight relative to the total weight of the treatment composition.

58. (Original) The method according to claim 42, wherein said at least one additional anionic associative polymer is present in an amount ranging from 0.01% to 5.00% by weight relative to the total weight of the treatment composition.

59. (Original) The method according to claim 42, wherein said at least one oxidizing agent is chosen from hydrogen peroxides, bromate salts, percarbonate salts, perborate salts and enzymes.

60. (Original) The method according to claim 59, wherein said at least one oxidizing agent is hydrogen peroxide.

61. (Original) The method according to claim 42, wherein said at least one oxidizing agent is present in an amount ranging from 0.1% to 20.0% by weight relative to the total weight of the treatment composition.

62. (Original) The method according to claim 42, wherein said treatment composition further comprises at least one adjuvant chosen from anionic surfactants, cationic surfactants, nonionic surfactants, amphoteric surfactants, anionic polymers different from said at least one anionic associative polymer and different from said at least one additional anionic associative polymer, nonionic polymers, cationic polymers, amphoteric polymers, inorganic thickeners, organic thickeners, antioxidants, stabilizing agents, propellants, sequestering agents, emollients, humectants, fragrances, acidifying agents, basifying agents, chelating agents, moisturizing agents, vitamins, essential fatty acids, proteins, protein derivatives, dyes, alkaline agents, reducing agents, preservatives, and opacifiers.

63. (Original) The method according to claim 42, wherein said treatment composition is in the form of an aqueous emulsion, a suspension, a dispersion, an aerosol foam, a cream, a lotion, a solution, a paste, a gel, a spray, or a hydroalcoholic lotion.

64. A multi-compartment kit for treatment of keratinous fibers, said kit comprising at least two separate compartments, wherein

a first compartment contains an oxidizing composition comprising:

at least one anionic associative polymer comprising at least one carboxylic acid group and at least one ester derived from a fatty alcohol and a carboxylic acid;

at least one additional anionic associative polymer comprising at least one carboxylic acid group and at least one ester derived from an alkoxylated fatty alcohol and a carboxylic acid; and

at least one oxidizing agent; and

a second compartment contains a composition for treatment of said keratinous fibers.

65. (Original) A multi-compartment kit according to claim 64, wherein said composition for treatment of keratinous fibers is chosen from a dyeing composition, a bleaching composition, a permanent waving composition, and a relaxing composition.

IX. Evidence Appendix

U.S. Patent No. 5,393,305 to Cohen et al., which was brought to the Examiner's attention with a submission of an Information Disclosure Statement and PTO 1449 form on March 16, 2001, and was considered by the Examiner on January 17, 2002.

X. Related Proceedings Appendix

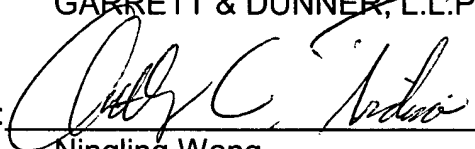
None.

Please grant any extensions of time required to enter this Brief and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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Dated: September 1, 2005

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